

**California Regional Water Quality Control Board
Santa Ana Region
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FREQUENTLY ASKED QUESTIONS:

**Minimum Lot Size Requirements For
Subsurface Disposal Systems**

Background and Purpose

The California Regional Water Quality Control Board, Santa Ana Region (Regional Board) has established minimum lot size requirements for the use of on-site septic tank-subsurface disposal systems at new developments within the Region. These requirements were first established in 1989 and have been amended since then. They are intended to protect groundwater quality. For residential developments, the minimum lot size required is one-half (½) acre per dwelling unit. For commercial and industrial developments, the minimum lot size required is based on the flow that is expected to be generated at the development (see response to Question 9, below). The Regional Board has also established a number of exemption criteria whereby Regional Board staff can grant exemptions from the minimum lot size requirements (MLSRs).

As the MLSRs have been implemented, a number of questions have been raised. The purpose of this document is to provide responses to the frequently asked questions. The reader is encouraged to contact a Regional Board staff member directly (either at the Regional Board office or by telephone, as listed above) if your particular question is not adequately addressed or if you need additional clarification or other assistance.

Q1: What is a “new” development, as defined in the MLSRs?

- A. A “new” development is defined as a proposed tract, parcel, industrial or commercial development which had not received one or more of the following approvals on or prior to September 7, 1989:
- a. Conditional approval or approval of a tentative parcel or tract map by the local agency (county or city Planning Commission, City Council, Board of Supervisors).
 - b. A conditional use permit.
 - c. Conditional approval or approval by the San Bernardino County Department of Environmental Health Services, Riverside county Department of Health, Orange County Health Care Agency or other local agency.

The development is also considered a “new” development if one or more of the approvals cited above were granted on or prior to September 7, 1989 but had expired prior to September 7, 1989.

Q2: What is an industrial/commercial development?

A: Industrial/commercial developments are developments other than single-family residential developments.

Q3: I reside in a home on a half-acre parcel utilizing a septic system. Can I construct a second dwelling unit and second septic system on this same lot?

A: In general, no. The minimum lot size requirements specify that you must have one-half acre for each dwelling unit/septic system proposed. However, an exemption from this requirement can be granted if you implement an acceptable offset.

Q4: I reside in a home on a half-acre parcel utilizing a septic system. I need to construct a second dwelling unit with septic system for my parents. Is there any way I can obtain an exemption from the minimum lot size requirements?

A: Yes. Under the minimum lot size exemption criteria, an exemption from the ½ acre per septic system requirement can be obtained if you implement an acceptable offset program. To implement an acceptable offset, you would need to connect another septic system to the sewer in exchange for your installation of the second septic system at your home. The septic system you connect to the sewer must be in the same general area as your home, and must not be required to be connected to the sewer for other reasons (e.g., the system is failing). You will need to obtain advance approval of your proposed offset from Regional Board staff. Board staff can provide additional information concerning the offset program and subsurface systems that are eligible for connection to the sewer. You are also encouraged to contact your local building department to see whether a list of septic systems eligible for connection is available. Please contact our office for further details.

Q5: I have a lot smaller than one-half acre in size and no sewer is available to serve this lot. There is not enough room on this lot to support a conventional septic system. Can I construct a home on this small lot utilizing an alternative disposal system?

A: Each request for the proposed use of an alternative treatment system must be reviewed on a case-by-case basis and submitted to the Regional Board for consideration. In addition, you would need to obtain approval from the appropriate local or county agency.

Q6: I would like to add an additional bedroom(s) and bath(s) to my existing home but my current septic system will not accommodate additional flows. Can I upgrade my existing septic system to accommodate the additional flows?

A: For single family residences, the replacement of an existing septic tank-subsurface disposal system to accommodate additional flows resulting from additions to the existing home is exempt from the one-half acre minimum lot size requirement. It should be noted that this exemption does not apply when the proposed additions to the existing home are freestanding. When the additions are freestanding, the ½ acre minimum lot size requirement applies.

Q7: My current residence is on a half-acre parcel utilizing a septic system. I would like to construct a bathroom in my detached garage. My existing septic system can accommodate additional flows. Can I connect the proposed garage bathroom to the septic system that is currently servicing my home?

A: No. The construction of the bathroom in the detached garage would be considered a freestanding addition to the home, subject to the ½ acre minimum lot size requirement. To approve your proposal, your parcel would have to be at least one acre. An exemption from this requirement could be granted if you implement an acceptable offset.

Q8: As in Question 7, I want to add a bathroom to my detached garage. If I constructed a breezeway between my house and garage, would you consider the garage a part of the existing dwelling, rather than detached, thereby allowing me to connect the bathroom to the existing septic system?

A: No. Connection of detached structures to an existing home by means of a breezeway does not render the detached structures part of the existing home. The addition of a bathroom to the garage (or other freestanding structure) would trigger the need to comply with the minimum lot size requirements.

Q9: I want to construct an office on a lot smaller than one-half acre. There is no sewer available to serve the lot. Can I obtain an exemption from the MLSRs?

A: Your project is considered a commercial/industrial development for the purposes of the minimum lot size requirements. The MLSRs specify that for commercial/industrial developments utilizing subsurface disposal systems, the wastewater flow for each ½ acre gross area of land may not exceed 300 gallons per day. For commercial/industrial developments on lots smaller than ½ acre, this flow rate requirement is prorated. For example, a commercial/industrial development on a ¼ acre parcel is permissible if the wastewater flow rate does not exceed 150 gallons per day. It is recommended that you contact Regional Board staff in advance to discuss your specific proposal.

Q10: I want to construct a home utilizing a septic tank-subsurface disposal system on a parcel that is under one-half acre. There is a sewer available to the lot. Do I have to connect the proposed home to sewer?

A: The MLSRs specify that no exemptions shall be granted for new developments on lots less than one-half acre that are 200 feet or less from a sewer that could serve the lot/tract. Contact our office if additional information is needed.

Q11: I have a tract/parcel that is under one-half acre in size. I received approval for the construction of home(s) utilizing septic system(s) for this tract/parcel prior to September 7, 1989. I am now ready to begin construction. Am I still subject to the MLSRs?

A: If approval or conditional approval of your tract/parcel was granted by a local agency such as the county/city Planning Commission, City Council or the Board of Supervisors on or before September 7, 1989, your project is not considered a “new development” and is not subject to the MLSRs for septic tank-subsurface disposal system use. Also, if a conditional use permit had been issued prior to September 7, 1989, for the project and/or conditional approval or approval by the San Bernardino County Environmental Health, Riverside County Health Department, Orange County Public Facilities & Resources Department or other local agency your development is not subject to the MLSRs.

Q12: I have a lot that is just under one-half acre in size (0.49). There are no easements included with my lot/property. Can I use easements adjacent to my property to calculate my lot size for the purposes of complying with the minimum lot size requirement of one-half acre per dwelling unit?

A: No. The MLSRs allows you to use easements in calculating your lot size only if those easements are a party of your property.

Q13: I would like to update my existing septic system to bring it up to code. My lot is less than a half-acre in size. Do I need to comply with the MLSRs?

A: No. For residential, commercial and industrial developments, the replacement of existing septic tank-subsurface disposal systems to bring them up to code, as required by the local health care agencies and/or the building and safety departments, is exempt from the minimum lot size requirements.

Q14: I have two lots just under one-half acre in size (0.47 acre net). I have constructed a home using a subsurface disposal system on one of the lots; however, the dwelling unit encroaches on a portion of the other lot. The County is requiring me to do a lot line adjustment in order to make the lots legal for future additional housing. There is no sewer available to the site. Am I subject to the MLSRs?

A: Lot line adjustments do not trigger the application of the MLSRs provided that: (1) the lots affected by the adjustment had both received one or more of the approvals identified in Question 1 on or prior to September 7, 1989; and (2) the total number of units proposed for the new lots is equal to or less than the total number of units originally proposed when the lots received approval

Q15: I am proposing to construct an additional office/warehouse building on a lot greater than 0.5 acres but less than 1 acre. The existing office is connected to a septic tank-subsurface disposal system. The new building will have two bathrooms and will be connected to a sanitary sewer line. The existing septic tank will still be used for the original office since connection to the sewer would be too costly. Is this project deemed a new development, subject to the MLSRs?

A: No. The proposed project does not trigger the minimum lot size requirements since the new building would be connected to the sewer and no additional subsurface disposal system is proposed.

Q16: If Regional Board staff denies my request for an exemption from the minimum lot size requirements can I appeal that decision?

A. Yes. You can request that the Regional Board consider your request for an exemption at one of the Board's meetings. Please contact Board staff about how to make such a request.